IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.438 OF 2004

Mrs.Snehalata Ashok Srivastava ...Applicant

Versus

Rajendra Suryakant Walvekar & Anr. ...Respondents

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Applicant present in-person.

Mr.K.V.Saste, A.P.P. for Respondent 2.

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CORAM: A.M.KHANWILKAR, J.

DECEMBER 1, 2004.

P.C.

1. The Applicant is a practising Advocate. She has appeared in-person. She submits that she would like to discharge her Advocate on record and conduct the case personally. In view of the request made, M/s.N.V.Vehalekar & Co., who are the Advocates on record for the Applicant, are discharged. Matter to proceed on merits.

2. Heard Applicant in-person. According to

the Applicant, the complaint as filed is vague. Besides, ingredients of extortion are not even spelt out in the complaint. Moreover, the complaint pertains to grievance which was already settled between the complainant and his father, which settlement was facilitated by the Applicant. It is further submitted that the complainant has disclosed the list of witnesses, one of whom had already died. However, no record is produced before this Court to establish the said fact. It is lastly contended that the fact that the complainant had taken recourse to remedy before the Bar Council of Maharashtra and Goa, is not even referred to in the complaint as filed, although the foundation of both the complaints is overlapping.

3. After perusing the record placed before me, I am in agreement with the order as passed by the Court below issuing process against the Applicant for the alleged offence. The Court below has applied correct principle in only looking at the complaint and the deposition recorded before issuance of process. It is well settled that complaint will have to be read as a whole. On

reading the complaint as a whole and looking at the allegation as spelt out from the evidence of the complainant led before the order of issuance of process, the Court below was justified in issuing process. The fact that no reference is made to the case instituted before the Bar Council of Maharashtra & Goa, makes no difference. The same was obviously for taking action for the alleged professional misconduct and has nothing to do with the criminal action, which is in issue in the present application. The argument that one of the witness, who has been named in the list of witnesses has already died, does not commend to me. At this stage, the Trial Court was obliged to only look at the complaint and the statement of verification, as recorded. Looking at those documents, the Trial Court was justified in issuing process, as there was sufficient material to do so.

4. Taking overall view of the matter, not a case for exercising inherent jurisdiction. Dismissed.

A.M.KHANWILKAR, J.